

APPROVED: Meeting No. 7-91

ATTEST: *Sharon A. Dean*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 6-91

February 25, 1991

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on February 25, 1991, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepian

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and Assistant City Attorney Sondra Block.

Re: City Manager's Report

1. A meeting to discuss the concept of a self-help association for common ownership communities has been scheduled for March 20, 1991 at 7:30 p.m. at City Hall. Letters of invitation have been sent to the presidents of all Rockville homeowners, condominium and cooperative associations.

2. On April 1, 1991, the City will begin its 1991 yard waste composting program. Interest has been expressed in the types of containers that will be acceptable, and in a recent memo to the Mayor and Council, staff noted that we will continue to accept yard waste for composting in easily emptied containers as well as the biodegradable bags. Weight restrictions on the containers will continue to be enforced, and more information will be forthcoming regarding this program.

Councilmember Hovsepien asked if the City has been able to reduce the costs of the biodegradable bags. Although the City Manager responded that staff has not been successful in this effort, they will continue to work with suppliers. It was noted that when the County implements a more aggressive program, there may be a more discernible impact on retailers.

In response to Councilmember Robbins, the City Manager noted that as of April 1, the City will no longer pick up yard waste in plastic bags as the County will not accept them at their composting site. Councilmember Coyle suggested that it may be appropriate to have an education program on composting, perhaps through the use of Cable TV. The City Manager will follow up.

3. Montgomery County's Department of Transportation today installed the necessary equipment to effect the signal change at Maryland Avenue, Potomac Valley Road and Falls Road. This change will facilitate right turn movement off of Falls Road.

4. With respect to sediment control efforts in connection with the Ritchie Parkway construction project, staff is very sensitive to the concerns expressed by citizens and believes that there is adequate protection. A detailed report regarding this matter will be prepared.

5. A hearing on the Rottweiler case was held today before Judge Ruben in the Circuit Court, and Judge Ruben found that the fees charged to the owners by the City were fair and reasonable. Insofar as the disposition of the case is concerned, Judge Ruben ordered that it be remanded to the City's Animal Control Board. For the Mayor and Council's consideration later this evening, the fees assessed the owners of the Rottweilers in the amount of \$1,300 remain unpaid, and there is no reason to believe that they will be paid. Pursuant to the City's current regulations, if such fees are not paid within 10 days of issuance of the statement of costs, the animals are deemed abandoned and come under the control of the City. The Mayor and Council may wish to consider

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providing staff with direction regarding disposition of these animals under this ordinance.

Re: Presentation by John Tyner,  
President of Twinbrook Citizens  
Association

John Tyner, President of Twinbrook Citizens Association, presented the City of Rockville with the Association's check in the amount of \$500 in appreciation for the City's continuing support for the Art in Public Places Program. He noted that the Association could not be happier with the process set up through the City's Master Plan for the Arts and administered by the Cultural Arts Commission with assistance from the City's Arts Consultant. Kenneth Lechter, Chairperson of the Cultural Arts Commission, thanked Mr. Tyner and the Twinbrook Citizens Association for their very generous gift. Mr. Lechter commented that this is yet another example of the high priority which our government and citizens place on quality of life in Rockville.

Re: Presentation of Annual Report  
of Board of Appeals

Karen Lechter, 1990 Chairperson of the Board of Appeals, recognized the contributions of Patrick Woodward who has served on the Board for the past eight years. Mr. Woodward was recently appointed by Governor Schaefer to the District Court of Maryland.

Alan Sternstein, current Chairperson, noted that the Board met 15 times during 1990 and heard a total of 40 cases, 28 variances, two appeals of decisions of the Sign Review Board and 10 special exceptions. Of these cases, 29 were approved, three were denied and eight were approved with conditions or modifications.

James Moone recognized the outstanding staff support provided by Lisa Rother and Alice Cronin, Mary Fitch and Tyler Tansing.

Patrick Woodward commented on the Board's support of legislation to establish

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a more appropriate standard of review for variances than "unnecessary hardship." The Board believes that the standard of "practical difficulty" is more appropriate as it is a term already defined in zoning case law.

It was noted that this issue is a legislative priority of the Maryland Municipal League and that the City of Rockville fully supports such legislation.

Councilmember Coyle commented on the contributions of the Board and its role of being one of the few boards and commissions in the position of making decisions affecting other citizens, one-on-one contact with the citizens. He congratulated the Board on their continued excellent service to the City.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. James Moone, 1204 Potomac Valley Road, commented that before the end of Black History Month, he wanted to make note of the fact that Rockville has made history. This year marks the 20th anniversary of Rockville's designation of Martin Luther King, Jr.'s birthday as a commemorative holiday. Dr. Moone reviewed the minutes of Meeting No. 1-71 (January 5, 1971) as well as a newspaper article taking note of this action.

2. John Tyner, Halpine Road, advised the Mayor and Council that the Kiwanis Club of Rockville will be holding its Annual Pancake Breakfast on Saturday, March 2, from 6:00 a.m. to 1:00 p.m. at Montgomery College. He also transmitted a request of the Twinbrook Citizens Association that, in the spring, an aerial view of Weitzman's "Map of Rockville" at Broome Athletic Park be taken through the use of a cherry picker.

3. Melvin Hall, 210 Elizabeth Avenue, extended an invitation to the Mayor and Council and the general public to celebrate the first anniversary of the Lincoln Park candlelight vigils on Saturday, March 23, at 7:30 p.m. at the Lincoln Park Community Center.

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There being no other citizens wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Dennis Kelly was appointed to the Board of Appeals as a Temporary Alternate for hearing of Application No. A-436-91.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Dennis Cain was appointed and William Meyer was reappointed to two-year terms on the Traffic and Transportation Commission.

Re: Approval of Minutes

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, the minutes of Meeting No. 5-91 (February 11, 1991) were approved, as written.

Re: Consent Agenda

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- A. Approval of waiver for on-site storm water management at Meadow Hall Elementary School and acceptance of a \$51,860 contribution to SWM fund.

Owner/developer, Montgomery County Board of Education, will expand the existing building and parking lot. Runoff from this site will go to proposed Maryvale II SWM facility for which construction is anticipated in FY91. This SWM facility has received waivers totalling approximately 45% of its storage capacity; adding this waiver will increase that to 50%. There are no wetlands impacts for Maryvale II.

- B. Introduction of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article XII,

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entitled "One and Two Family Dwelling Code" so as to adopt the 1989 edition of the CABO One and Two Family Dwelling Code with certain deletions, additions and changes.

- C. Receipt of financial reports summarizing the financial results of City operations from July 1, 1990, through January 31, 1991.

Re: Adoption of Resolution to establish voluntary rent increase guideline for 1991-1992 of 4.6%.

Resolution No. 2-91

The City Manager commented that the Landlord-Tenant Office annually evaluates current rental data and recommends a maximum percentage rate for rental increase to the Mayor and Council. Staff feels that the recommended voluntary rent increase guideline of 4.6% is appropriate.

Councilmember Coyle requested that staff contact the Polinger Company to determine if they would be willing to enter into a new agreement with the City to limit the amount of rent increases to eligible senior citizens. The City Manager responded that staff will follow-up with the Polinger Company.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Resolution No. 2-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to establish a voluntary rent guideline for 1991-1992 of 4.6%.

Re: Adoption of Resolution regarding the Procurement of Recycled Materials.

Resolution No. 3-91

The City Manager commented that the impetus for this action emanates from the

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Mayor and Council and lends support to one of the goals of the Council of Governments to encourage recycling generally and, more specifically, to purchase recycled papers. This resolution is similar to other resolutions being adopted in the region with a common goal that at least 50% of the total dollar value of paper and paper products purchased by or for the City will be spent on the purchase of recycled paper products. The City Manager also pointed out that this is based on the assumption that the purchase of recycled products would be cost competitive with a 10% differential. Councilmember Robbins inquired as to the cost differential for the City's total volume of paper needs, and the City Manager responded that the City spent \$12,000 last year on white paper.

Councilmember Marrinan commented on the commitment of fellow local governments through the Metropolitan Washington Council of Governments to move in this direction. With the demand for recycled paper increasing, there should be an attendant decrease in price.

In response to Councilmember Coyle, staff will be providing information as to other types of recycled products which the City may be able to purchase.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Resolution No. 3-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to signify the City's continuing commitment to the purchase of recycled products and establish purchasing goals for recycled paper.

Re: Discussion and Instructions  
to Staff - Review of Montgomery  
County's Capital Improvements  
Program (CIP) for FY1992-1997  
to develop comments for  
submission to Montgomery County  
Council.

Councilmember Hovsepien commented on several of the projects. With respect to the Adult Addiction Programs, she agrees with the recommendation of the Planning Commission concerning the impact the expansion of services would have on the neighborhood

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in terms of traffic and parking. She also noted agreement with the Planning Commission recommendations concerning the Rockville Regional Library, the Avery Road Project (construction of a two-lane bridge and improvements to Avery Road) and the Seven Locks Technical Center (opposition to any new construction).

Councilmember Coyle noted that all recommendations seem appropriate and, in response to his question as to whether the County had dropped any projects that in the past had impacted the City and on which the City had taken a strong position, the City Manager indicated that this is a complete list of the County's CIP project.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, staff was directed to prepare comments on the CIP, consistent with the recommendations of the Planning Commission, to be forwarded to the Montgomery County Council.

Re: Staff Report/Discussion and  
Instructions to Staff - Adopt-  
a-Road Program.

In response to an earlier directive of the Mayor and Council to determine if the City could take over jurisdiction of any adopt-a-road programs within the corporate limits of Rockville, the County's Department of Transportation has agreed to this proposal. To date, written authorization has not been received from the State Highway Administration.

Staff recommends the continuation of this voluntary clean-up program. Signs should not be included as part of the program as concern has been expressed that these signs contribute to the visual clutter along the roads and, additionally, they are not consistent with the City's zoning and sign ordinances. Staff recommends a number of ways to give recognition to groups who participate in the adopt-a-road program.

The City Manager advised Councilmember Robbins that no new County signs would be erected and that the City would define a level of commitment or involvement for its program. In response to Councilmember Coyle, the City Manager advised that the County



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signs within the City limits could be removed at any time. The City's media, that is, Cable TV and Rockville Reports could be used to recognize participants. As to why it is recommended that residential streets be excluded, Councilmember Coyle was advised that the program was originally intended to apply to rural roads. If the City encouraged individuals to adopt urban streets, it may send a conflicting message as under the Property Maintenance Code, an abutting property owner is responsible for the area between his or her property and the street.

Councilmember Hovsepian commented that it would be nice to identify areas which are in need of "adoption" such as the streets behind Twinbrook Shopping Center, McAuliffe Road and Meadowhall, especially after a windy day. Inasmuch as the City is emphasizing recycling, she also suggested that separate containers be provided for the recycling of cans and bottles collected along the roads.

Mayor Duncan requested that the above recommendations be included in the proposed program. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, staff recommendations for a City-operated Adopt-a-Road Program were approved as clarified by the Mayor and Council.

Re: FYI/Correspondence

Citizen Police Academy

Chief Treschuk advised Councilmember Hovsepian that the purpose of the Academy is to reach out to the public and provide them with a view of the role of the police and courts, the difference between civil and criminal law, how to read police reports and, finally, provide a forum to answer citizen questions. As of today, 46 individuals have signed up.

Councilmember Coyle referenced the letter from Morton Goldstein expressing appreciation for the Police Ride-Along Program, commenting that this is another example of how the Police Department reaches out to the citizens.

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Proposed Block Grant Changes

The Mayor and Council approved the draft letter to be forwarded to the City's congressional and senate representatives. Staff was also requested to forward a similar letter to Governor Schaefer to gain support at the state level.

Maryland Municipal League Convention Display

In response to Mayor Duncan, the City Manager indicated that this is a new program of MML and the City would like to show its support. The cost will be minimal as the City already has a booth, and, at the Mayor's request, it was agreed that the Mayor, Council, City Manager and City Clerk will staff the booth.

County Issuance of Burning Permits

At the request of William Meyer, the Mayor and Council requested that the County minimize the issuance of fire permits for land clearing within the City. Montgomery County's Department of Environmental Protection responded by indicating that it can reasonably assure the discontinuance of the issuance of burning permits within the City limits. Mayor Duncan requested that a copy of this response be forwarded to Mr. Meyer.

Maryland State BidBoard Directory

Councilmember Hovsepian requested that this directory be made available to the business community, especially the small business arena.

Associated Press Wire Photograph

Mayor Duncan displayed a photograph he had received from Mary Bodmer of ABC News, a former resident of Rockville. Ms. Bodmer edits AP wire photographs and came across this photograph of a soldier in Tel Aviv standing in front of a directional sign which notes that it is 6,200 miles to Rockville, Maryland. He requested that the City feature this photograph in Rockville Reports,

Re: New Business

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With respect to the hearing held today before Judge Ruben on the Rottweiler case, the City Manager noted that staff is responsible for enforcing the ordinance which provides that if the bills are not paid within ten days of their receipt, the dogs are deemed abandoned. Mr. Romer commented that staff has every reason to believe that the bills will not be paid and requested that the Mayor and Council provide the staff with direction as to how to proceed. Councilmember Marrinan commented on the 24-hour notice required of any City action to destroy the dogs. Mayor Duncan stated that the bill of at least \$1,400 has remained unpaid for a month and that it is his opinion that the dogs are still extremely dangerous and should be put to sleep. He would like to see the City Manager proceed and enforce the City ordinance rather than having the taxpayers continue to support the animals.

Councilmember Hovsepien disagreed, noting that the Montgomery County Humane Society had offered to take over the dogs and she believes they should be turned over to the Humane Society which is in a position to make a judgment as to whether the dogs could be retrained and, if not, put to sleep.

Councilmember Robbins indicated that the City has spent a fair amount of time to develop an ordinance which is extremely clear in terms of "vicious dogs." He is comfortable in terms of the public interest in moving forward with destruction of the dogs. Councilmember Marrinan indicated that it is questionable whether the dogs can be rehabilitated after being incarcerated for many months and agreed to move forward with having the dogs destroyed.

Upon motion of Councilmember Marrinan, duly seconded, with Mayor Duncan, Councilmembers Coyle, Marrinan and Robbins voting aye and Councilmember Hovsepien voting nay, staff was instructed to proceed to dispose of the animals as deemed appropriate, that is, have the animals put to sleep, if the owners' bill remains unpaid pursuant to the Court order.

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Councilmember Robbins asked how the City is proceeding with the proposed animal control ordinance. Staff responded that the group is meeting regularly and working very hard. The goal is to hold a worksession some time before the end of March.

Councilmember Marrinan advised that the Council of Governments Board of Directors voted on February 14, to approve a resolution endorsing a regional policy statement on gun control legislation and encouraging Maryland and Virginia legislatures to adopt such legislation.

Councilmember Hovsepian reported that Richard Montgomery High School has been designated as one of three Montgomery County schools recognized by the Maryland Secondary Recognition Program and one of eight Maryland schools nominated by the National School Recognition Program of the United States Department of Education. Among the factors leading to this recognition were: outstanding academic program, high academic expectations and strong parental involvement. Winners will be announced in the spring.

With respect to the bicycle helmet legislation before the County Council, Councilmember Coyle stated that he would like the City to go on record in support of such legislation. He also requested information as to when the pedestrian report would be completed and released.

Mayor Duncan noted that the Dr. Gridlock column in last Thursday's Washington Post featured an article on traffic in Rockville and the improvements that have been noted lately. This is extremely good news for the City.

With respect to recommendations from the Board of Supervisors of Elections, Mayor Duncan advised that he had requested that the Board consider two ballot issues, that is, limitation of number of terms for Mayor and Council and terms of four years rather than two years. The Board responded that they would administer any initiatives that are put on the ballot in accordance with the Elections Ordinance. Mayor Duncan requested that the question of whether to pursue placing these two issues on the ballot

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be scheduled on the agenda for March. These two ballot issues appeared in the 1984 election at the request of Councilmember Hovsepian.

Mayor Duncan had also requested that the Board consider disallowing any PAC contributions for City elections. Although the Board did not respond in writing to this request, Mayor Duncan was advised by the City Clerk that the Assistant City Attorney had commented that such a restriction may be successfully challenged in court. The City Attorney was requested to prepare appropriate legislation to ban PAC contributions and forward same to the Board of Supervisors of Elections for consideration at their meeting of March 14.

While the Board of Supervisors of Elections is responsible for administering the election, Councilmember Coyle questioned the appropriateness of their advising the Mayor and Council on ordinance changes. He wondered if the citizen task force should be reconstituted for such purpose which would provide for broader input. Mayor Duncan noted that a Charter Review Commission could be appointed.

Re: Next Meeting

In addition to the election issues, items scheduled for the meeting of March 11, 1991, include introduction of an ordinance to levy a special assessment and the group home text amendment.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:15 p.m., to convene again in General Session at 7:30 p.m. on March 11, 1991, or at the call of the Mayor.